



CALIFORNIA STATE PERSONNEL BOARD

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ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – SEPTEMBER 5, 2006

SUMMARY MINUTES¹

SEPTEMBER 5, 2006

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

William Elkins, President
Sean Harrigan, Vice President
Maeley Tom, Member
Anne Sheehan, Member
Patricia Clarey, Member

2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura

- A.** A copy of "Shared Solutions" was disseminated to Board Members. This publication is designed to help the SPB provide current information to human resources staff throughout the State.
- B.** The Board Meeting room is still under restoration with restored seating, both for the audience as well as the Board members.
- C.** Based on the Plata case, the Special Master has taken over CDCR's health care division. SPB staff will be meeting with representatives of the Special Master to discuss several options on how medical personnel with substandard skills can be removed from State service. One option, which the Special Master's staff appear to favor, would involve the use of a peer review system within CDCR which could lead to non-punitive termination if performance deficiencies cannot be improved.

3. REPORT OF THE DEPARTMENT OF PERSONNEL ADMINISTRATION (DPA)
- DPA Representatives

- A.** Dave Gilb has been appointed the Director of the Department of Personnel Administration.
- B.** Division Chief Daryll Tsujihara gave a brief report on recent activities of the Department of Personnel Administration.

¹ The Minutes for the Board Meetings can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

4. REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)
- Maeley Tom

Member Maeley Tom gave a brief report on recent activities of the Public Employees Retirement System.

5. REPORT OF THE CHIEF COUNSEL – Dorothy Egel

Litigation:

- McCollum v. State of California - In a case by a Wiccan religious leader challenging the state's chaplain classifications, the district court granted the State's motion to dismiss most of the allegations against both SPB & CDCR. Additional discovery will be conducted on the remaining claims.
- Service Employees International Union, Local 1000 (CSEA) v. California Office of State Printing - Sacramento Superior Court found the statute authorizing an exemption from the SPB's review process for contracts involving printing services to be unconstitutional.
- Copley Press v. County of San Diego - In a case involving the appeal of a Deputy Sheriff who had been disciplined by the county, the Court held that the Civil Service Commission was part of the employing agency and therefore it could not disclose any of its records relating to the disciplinary appeal including the employee's name, tape recording of hearing, and all documents submitted or created by the Commission.

Other:

- We have received a formal opinion from the Attorney General's office holding that the Prison Industry Authority is not entitled to employ an executive officer as an exempt employee. SPB had been asked by the Attorney General's office to comment on this issue prior to the decision.

6. NEW BUSINESS

NONE PRESENTED

7. REPORT ON LEGISLATION – Sherry Evans

NONE PRESENTED

8. SPECIAL HEARING – California State Personnel Board Staff

The Board met with three department representatives regarding progress and efforts made to comply with statutes pertaining to civil rights and equal employment opportunity.

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

9. ORAL ARGUMENT

Oral argument in the matter of **RAYMOND GURULE, CASE NO. 05-1351A**.
Appeal from dismissal. Youth Correctional Officer. Department of Corrections and Rehabilitation (formerly Department of the Youth Authority).

Persons Participating:

Joseph Macaluso, Attorney, California Department of Corrections and Rehabilitation, representing department.

Ina A. Arnold, Senior Hearing Representative, California Correctional Peace Officers Association (CCPOA), representing appellant.

ACTION: SUBMITTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

10. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

*****Friedman and Colocousis Oral Argument removed from calendar*****

11. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

12. ORAL ARGUMENT

Oral argument in the matter of **JONATHAN SILVERMAN, CASE NO. 05-0078A**. Appeal from dismissal. Workers' Compensation Payroll Auditor. State Compensation Insurance Fund.

Persons Participating:

James E. Toomey Jr., Attorney, State Compensation Insurance Fund (SCIF), representing department.

Kaye Antel-Berenson, Senior Labor Relations Representative (SLRR), SEIU Local 1000, representing appellant.

ACTION: SUBMITTED

13. ORAL ARGUMENT

Oral argument in the matter of **AUWANA BROWN, CASE NO. 00-3446**. Appeal to set aside resignation. Police Officer. California State University, Fresno.

Persons Representing:

Nana Nakano, University Counsel, California State University, representing respondent.

Dean B. Gordon, Attorney, representing appellant.

ACTION: SUBMITTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

14. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

15. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).] (See Action Taken on Pages 12–17)

16. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

Patrick McCollum v. State of California
United States District Court, Northern District of California
Case No. C 04-03339 CRB

Service Employees International Union, Local 1000 (CSEA) v. California Office of State Printing, Department of General Services, et al., Sacramento County Superior Court Case No. 05CS01230.

Brian Van Slyke v. State Personnel Board, et al.
Sacramento Superior Court Case No. 05CS01776

17. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

NO ACTION

18. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

NO ACTION

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

19. CALTRANS HEARING

- Laura M. Aguilera, California State Personnel Board
- Rosie Jauregui, California State Personnel Board
- Karen Coffee, California State Personnel Board
- Judy O'Day, Department of Transportation
- Franchesca Negri, Department of Transportation

The California Department of Transportation (Caltrans) proposes to abolish the existing eligibility lists for the Staff Services Manager I and Staff Services Manager II created by Caltrans.

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Clarey – Aye
Tom, Sheehan – Abstained

**20. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF
SEPTEMBER 20, 2006, IN SACRAMENTO, CALIFORNIA**

NONE

BOARD ACTIONS:

**21. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF
JULY 25, 2006**

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

22. EVIDENTIARY CASES

ACTION: See Case Listings on Pages 12–19

**23. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE
SECTION 18671.1 EXTENSION - (See Minutes on Pages 25–26)**

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

24. NON-EVIDENTIARY CASES

ACTION: See Case Listings on Pages 20–22

25. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

On September 5, 2006, the following proposals were presented to the Board by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

**A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR
DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH,
REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE
CRITERIA, ETC.**

NONE

B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes. When classes are proposed to be abolished which are part of a class series, and other classes within the series will continue to be used, the class specification is included in the board item.

Title	Class Code
Legislative and Information Coordinator, Commission on Teaching Credentialing, C.E.A.	1347
Comptroller Department of Water Resources	4570
Assistant Chief, Investments, State Teacher Retirement System	4516
Division Chief Retirement Systems	4259
Fire Prevention Assistant	1096
Information Systems Supervisor, California Postsecondary Education Commission	1366
Assistant Aircraft Parts Manager/Mechanic	6879
Aircraft Mechanic	8484
Supervisor Tax Area Services	3025
Senior Tax Area Delineator	3024
Tax Area Delineator	3027
Electrician/Power Line Worker	6539
Administrator, California Education Publications	2736
Departmental Food Administrator, Special Schools	2276
Manager, Commodity Processing Programs	4919
Chief Office of Governmental Affairs, Department of Education, C.E.A.	4705
Supervising Claim Auditor, Welfare Programs	1773
Claims Auditor, Welfare Program	1772
Chief Division for the Blind	9426
Chief, Office for the Deaf, Department of Social Services	9431
Election Official, Public Employment Relations Board	1233
Regional Director, Public Employment Relations Board	9524
Public Employment Relations Specialist	8794
Administrator, Deferred Compensation Programs	5351

26. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

ASSOCIATE GOVERNMENTAL PROGRAM ANALYST

The Department of Personnel Administration proposes the following revisions to the Associate Governmental Program Analyst (AGPA) class specification: remove all references to the Staff Governmental Program Analyst (SGPA) classification which was abolished in 1994; revising the specification into a single class format; and re-titling the specification to Associate Governmental Program Analyst from Governmental Program Analyst.

ACTION: NOTED

27. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

DEPUTY DIRECTOR, CONSUMER PROTECTION AND GENERATOR PERFORMANCE - CONSUMER PROTECTION AND SAFETY DIVISION

The Public Utilities Commission proposes to allocate the above position to the CEA category. The Deputy Director, Consumer Protection and Generator Performance serves as the chief policy development and implementation advisor in the design and functioning of the Division's consumer protection and safety goals, objectives, priorities and work plans.

DEPUTY DIRECTOR, PUBLIC SAFETY AND SECURITY

The Department of Water Resources proposes to allocate the above position to the CEA category. The Deputy Director, Public Safety and Security is the principal policymaker in all public safety issues, such as flood protection and management, dam safety and departmental security.

DEPUTY DIRECTOR, BUSINESS OPERATIONS

The Department of Water Resources proposes to allocate the above position to the CEA category. The Deputy Director, Business Operations is the principal policymaker on business operations issues such as SPB, which is the Department's enterprise resource planning (ERP) software (SAP), human resources, budget, information technology, fiscal systems, contracts, business services and strategic planning.

ASSISTANT COUNSEL, STATE CONTRACT SERVICES

The State Compensation Insurance Fund proposes that the above position be allocated to the CEA category. The Assistant Counsel, State Contract Services will be responsible for program management and policy formulation for the legal function of the State Contract Services program.

OMBUDSMEN, KERN VALLEY STATE PRISON

The California Department of Corrections and Rehabilitation proposes to allocate the above position to the CEA category. The Ombudsmen, Kern Valley State Prison will be responsible for policy and public relations issues involving Kern Valley State Prison.

DEPUTY DIVISION CHIEF, DIVISION OF LAND RESOURCE PROTECTION

The Department of Conservation proposes to allocate the above position to the CEA category. The Deputy Division Chief, Division of Land Resource Protection assists in the planning, organizing and directing of staff responsible for the operation of the Division of Land Resource Protection.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

PROJECT DIRECTOR, REAL ID PROJECT OFFICE

The Department of Motor Vehicles proposal to allocate the above position to the CEA category has been approved effective August 10, 2006.

PROJECT DIRECTOR, BUSINESS INFORMATION SYSTEMS

The California Department of Corrections and Rehabilitation's proposal to allocate the above position to the CEA category has been approved effective August 10, 2006.

PROGRAM DIRECTOR, WASTE COMPLIANCE AND MITIGATION PROGRAM

PROGRAM DIRECTOR, SUSTAINABILITY PROGRAM

The California Integrated Waste Management Board proposal to re-allocate their existing CEA positions titled, Deputy Director, Diversion, Planning and Local Assistance; and Deputy Director, Waste Prevention and Market Development to the above positions has been approved effective August 10, 2006.

****Note: the above positions were incorrectly listed on the 8/8/2006 Board Meeting Agenda as: Project Director, Waste Compliance and Mitigation Program; and Project Director, Sustainability Program. The correct titles are listed above. ****

**ASSISTANT SECRETARY, PROGRAM PERFORMANCE AND
TRACKING**

ASSISTANT SECRETARY, STRATEGIC PLANNING

The California Bay Delta Authority has withdrawn their proposals to allocate the above positions to the CEA category effective July 12, 2006.

****Note: the above positions were incorrectly listed on the 8/8/2006 Board Meeting Agenda as: Assistant Secretary, Policy and Finance; and Assistant Secretary, Water Management and Regional Coordination. The correct titles are listed above. ****

ACTION: NOTED

28. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

29. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE PRESENTED

30. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE PRESENTED

31. BOARD ACTIONS ON SUBMITTED ITEMS

ACTION: See Minutes on Pages 23–24

A D J O U R N M E N T

WHAT FOLLOWS IS A RECORD OF ACTION TAKEN ON AGENDA ITEMS 22 – 24 AS NOTED.

22. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

On September 5, 2006, the Board took the following action on the cases listed as presented by Dorothy Bacskai Egel, Senior Staff Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

(1) PRECILLA CALAUNAN, CASE NO. 05-1737RPA

Appeal from dismissal

Classification: Psychiatric Technician Assistant

Department: Department of Developmental Services

Petition for Rehearing granted March 8, 2006.

Oral argument heard July 11, 2006, Sacramento.

Case ready for decision by FULL Board.

NO ACTION

(2) PAUL CHATHAM, CASE NO. 05-1287A

SARAH WIRTH, CASE NO. 05-1599A

Appeal from five percent reduction in salary for six months and two work days suspension

Classification: Correctional Lieutenant and Correctional Sergeant

Department: Department of Corrections and Rehabilitation

Proposed decision rejected May 2, 2006.

Oral argument heard July 11, 2006, Sacramento.

Case ready for decision by FULL Board.

NO ACTION

(3) LEE KENDRICK, CASE NO. 04-1620PA

Appeal from dismissal

Classification: Transportation Surveyor

Department: Department of Transportation

Petition for Rehearing granted April 4, 2006.

Oral argument heard August 8, 2006, Los Angeles.

Case ready for decision by FULL Board.

NO ACTION

(4) RAYMOND SLEDGE, CASE NO. 04-2809PA

Appeal from dismissal

Classification: Youth Correctional Counselor

Department: Department of the Youth Authority

Petition for Rehearing granted March 8, 2006.

Oral argument heard August 8, 2006, Los Angeles.

Case ready for decision by FULL Board.

NO ACTION

B. CASES PENDING

ORAL ARGUMENTS

These cases were on calendar to be argued at this meeting or to be considered by the Board in closed session based on written argument submitted by the parties.

On September 5, 2006, the Board took the following action on the cases listed as presented by Dorothy Bacskai Egel, Senior Staff Counsel, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

(1) AUWANA BROWN, CASE NO. 00-3446

Appeal to set aside resignation

Classification: Police Officer

Department: California State University, Fresno

ACTION: SUBMITTED

- (2) **JACK FRIEDMAN, CASE NO. 05-2596A**
JOHN COLOCOUSIS, CASE NO. 05-2595A & 06-0016A
Appeal from official reprimand and official reprimand and five workdays' suspension
Classification: Physician and Surgeon, Correctional Facility
Department: Department of Corrections and Rehabilitation
ACTION: Oral Argument removed from calendar, see page 18 under "Pending Board Review"
- (3) **RAYMOND GURULE, CASE NO. 05-1351A**
Appeal from dismissal
Classification: Youth Correctional Officer
Department: Department of the Youth Authority
ACTION: SUBMITTED
- (4) **JONATHAN SILVERMAN, CASE NO. 05-0078A**
Appeal from dismissal
Classification: Workers' Compensation Payroll Auditor
Department: State Compensation Insurance Fund
ACTION: SUBMITTED

C. CHIEF COUNSEL RESOLUTIONS

On September 5, 2006, the Board took the following action on the cases listed as presented by Dorothy Bacskai Egel, Senior Staff Counsel, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

- (1) **SMYRNA CALVA, CASE NO. 05-0464**
Appeal from dismissal
Classification: Racing License Technician II
Department: California Horse Racing Board
Request for approval of Settlement Agreement
ACTION: The Board issued a Resolution approving the stipulation for settlement.
- (2) **HABTNESH EZRA, CASE NO. 05-1286**
Appeal from 30 work days suspension
Classification: Nurse Evaluator II, DHS
Department: Department of Health Services
Withdrawal of action or appeal
ACTION: The Board issued a Resolution vacating its prior order to remand the case for a hearing and directing that the case shall be closed pursuant to the appellant's request.

- (3) **LINDA STONESTREET, CASE NO. 03-3547E**
Appeal from reasonable accommodation
Classification: Park Maintenance Worker I
Department: Department of Parks and Recreation
Request for Order to show cause
ACTION: The Board issued a Resolution remanding the case to an ALJ with specific instructions.
- (4) **JAMES WOLF, CASE NO. 04-0278**
Appeal from official/formal reprimand
Classification: Youth Correctional Counselor
Department: Department of Corrections and Rehabilitation
Stipulation for Settlement
ACTION: The Board issued a Resolution vacating its prior decision and approving a settlement agreement.
- (5) **VERNON MARTIN, CASE NO. 06-1790**
Appeal from dismissal
Classification: Seasonal Lifeguard I
Department: Department of Parks and Recreation
Whistleblower retaliation complaint
ACTION: The Board issued a Resolution denying the motion for reconsideration of dismissal of complaint.

COURT REMANDS

NONE

STIPULATIONS

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On September 5, 2006, the Board took the following action on the cases listed as presented by Dorothy Bacskai Egel, Senior Staff Counsel, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

- (1) **RICK ADAMS, CASE NO. 06-0626**
Appeal from rejection during probationary period
Classification: Fire Apparatus Engineer
Department: Department of Forestry and Fire Protection
ACTION: The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.
- (2) **BRIAN FARR, CASE NO. 05-3113**
Appeal from ten percent reduction in salary for two months
Classification: Senior Vocational Rehabilitation Counselor
Department: Department of Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.
- (3) **FELIX J. FIGUEROA, CASE NO. 06-0623**
Appeal from ten percent reduction in salary for twelve months
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision revoking the reduction in salary.
- (4) **LOUIS GARCIA, CASE NO. 04-2112**
Appeal from dismissal
Classification: Parole Agent I, AP
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (5) **KENNETH L. JACKSON, JR., CASE NO. 05-0638**
Appeal from dismissal
Classification: Conservationist I
Department: California Conservation Corps
ACTION: The Board rejected the ALJ's Proposed Decision modifying the dismissal.
- (6) **JAMES B. MUNCH, CASE NO. 05-4426**
Appeal from demotion and five percent reduction in salary
Classification: Senior Water Resource Control Engineer
Department: California Regional Water Quality Control Board
ACTION: The Board adopted the ALJ's Proposed Decision modifying the demotion and revoking the reduction in salary.
- (7) **BABU RAO, CASE NO. 06-0639**
Appeal from rejection during probationary period
Classification: Physician and Surgeon
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.

- (8) **LAURA VILLEGAS-PERDOMO, CASE NO. 06-0784**
Appeal from ten percent reduction in salary for twelve months
Classification: Psychiatric Technician
Department: Department of Developmental Services
ACTION: The Board adopted the ALJ's Proposed Decision
revoking the reduction in salary.

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On September 5, 2006, the Board took the following action on the cases listed as presented by Dorothy Bacskai Egel, Senior Staff Counsel, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

- (1) **SHAWN E. PERKINS, CASE NO. 05-3105P**
Appeal from 20 workdays' suspension
Classification: Water Resources Technician II
Department: Department of Water Resources
ACTION: Petition for rehearing denied.

WHISTLEBLOWER NOTICE OF FINDINGS

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

On September 5, 2006, the Board took the following action on the cases listed as presented by Dorothy Bacskai Egel, Senior Staff Counsel, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

- (1) **JACK FRIEDMAN, M.D., CASE NO. 05-2596A**
JOHN S. COLOCOUSIS, M.D., CASE NO. 05-2592A
Appeal from formal reprimand and formal reprimand and five work days suspension
Classification: Physician and Surgeon, Correctional Facility
Department: Department of Corrections and Rehabilitation
- Proposed decision rejected June 6, 2006.
Pending oral argument October 10-11, 2006, Sacramento.

NO ACTION

- (2) **GAIL GARCIA, CASE NO. 05-3030A**
Appeal from constructive demotion
Classification: Office Technician
Department: Department of Developmental Services
- Proposed decision rejected May 2, 2006.
Pending oral argument October 31–November 1, 2006, San Diego.

NO ACTION

- (3) **RAYMOND GURULE, CASE NO. 05-1351A**
Appeal from dismissal
Classification: Youth Correctional Officer
Department: Department of the Youth Authority
- Proposed decision rejected April 4, 2006.
Pending oral argument September 5, 2006, Sacramento.

ACTION: SUBMITTED

- (4) **CHAD LOOK, CASE NO. 04-1789APB**
Appeal for back pay
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- Proposed decision rejected June 21, 2006.
Pending oral argument October 31–November 1, 2006, San Diego.

NO ACTION

- (5) **TIFFANY MIRANDA, CASE NO. 05-4330A**
Appeal from dismissal
Classification: Custodian Supervisor II
Department: Department of Corrections and Rehabilitation

Proposed decision rejected June 21, 2006.
Pending oral argument October 10–11, 2006, Sacramento.

NO ACTION

- (6) **DEYANIRA MOLINA, CASE NO. 05-1567A**
Appeal from dismissal
Classification: Housing Finance Specialist (General)
Department: California Housing Finance Agency

Proposed decision rejected July 11, 2006.
Pending oral argument October 31–November 1, 2006, San Diego.

NO ACTION

- (7) **NICHOLAS ORLANDO, CASE NO. 05-1875A**
Appeal from rejection during probationary period
Classification: Equipment Material Specialist
Department: Department of Transportation

Proposed decision rejected August 8, 2006.
Pending transcript.

NO ACTION

- (8) **JONATHAN SILVERMAN, CASE NO. 05-0078A**
Appeal from dismissal
Classification: Workers' Compensation Payroll Auditor
Department: State Compensation Insurance Fund

Proposed decision rejected May 23, 2006.
Pending oral argument September 5, 2006, Sacramento.

ACTION: SUBMITTED

- (9) **JAMES STEED, CASE NO. 05-0207PA**
Appeal from constructive medical suspension
Classification: Facility Captain
Department: Department of Corrections and Rehabilitation

Petition for Rehearing granted March 8, 2006.
Pending oral argument October 10–11, 2006, Sacramento.

NO ACTION

24. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases were heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On September 5, 2006, the Board adopted as indicated below the following items as presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

(1) LOGAN COURTNEY, CASE NO. 05-1296

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Issue: Suitability; omitted pertinent information.

ACTION: DENIED

(2) JUSTIN HILL, CASE NO. 05-1396

Classification: Cadet

Department: California Highway Patrol

Issue: Suitability; due to a demonstrated lack of judgment and integrity.

ACTION: DENIED

(3) ANN JOHNSON, CASE NO. 05-1307

Classification: Medical Technical Assistant

Department: Department of Corrections and Rehabilitation

Issue: Suitability; omitted information, furnished inaccurate information, had a negative employment record and failed to comply with instructions.

ACTION: DENIED

(4) RODGER MANNKA, CASE NO. 05-1984

Classification: Motor Vehicle Field Representative

Department: Department of Motor Vehicles

Issue: Suitability; felony conviction.

ACTION: DENIED

- **MAURICIO GARCIA, CASE NO. 05-2567**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: DISMISSED
- **ALI HAYATDAVOUDI, CASE NO. 05-0669**
Classification: Environmental Planner
Department: Department of Transportation
ACTION: DISMISSED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases were heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board was presented recommendations by a Hearing Panel on each appeal.

On September 5, 2006, the Board adopted as indicated below the following items as presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

- (1) **WILLIAM BUSCH, CASE NO. 05-2734**
Classification: Correctional Officer
Department: Department of Correction and Rehabilitation
ACTION: DENIED
- (2) **JOEL JOHNSON, CASE NO. 05-1320**
Classification: Correctional Officer
Department: Department of Correction and Rehabilitation
ACTION: DENIED
- **DANIEL FISCHBACH, CASE NO. 06-0656**
Classification: Psychiatric Technician Assistant
Department: Department of Mental Health
ACTION: DISMISSED
- **MICHELE HELMAR, CASE NO. 05-4407**
Classification: Correctional Administrator
Department: Department of Corrections and Rehabilitation
ACTION: DISMISSED
- **ESKER ROBERTS, CASE NO. 06-0651**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: DISMISSED

- **MATTHEW ALLRED, CASE NO. 06-2004N**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: DISMISSED
- **HEIDI SCHWARZ, CASE NO. 05-3616**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: DISMISSED

C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS

NONE

D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board was presented recommendations by Appeals Division staff for final decision on each request.

On September 5, 2006, the Board adopted as indicated below the following items as presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

- (1) LAKISHA PARHAM-DAVIS, CASE NO. 05-3045**
Classification: Staff Service Analyst
Department: Department of Conservation
ACTION: DENIED

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NO ACTION

6. HEARING – Public Hearing Regarding State Employment Application (STD. 678 (Rev/ 12/2001))

Should the Instructions section of the state employment application, pursuant to Richard Toby (2001) SPB Dec. No. 01-04, clarify whether employees who have been rejected during their probationary period be required to answer "Yes" to Question No. 5 of the employment application? (Hearing held July 11, 2006.)

NO ACTION

7. PRECILLA CALAUNAN, CASE NO. 05-1737RPA

Appeal from dismissal. Psychiatric Technician Assistant. Department of Developmental Services. (Oral argument held July 11, 2006.)

NO ACTION

**8. PAUL CHATHAM, CASE NO. 05-1287A &
SARAH WIRTH, CASE NO. 05-1599A**

Appeal from five percent reduction in salary for six months and two work days suspension. Correctional Lieutenant and Correctional Sergeant. Department of Corrections and Rehabilitation. (Oral argument held July 11, 2006.)

NO ACTION

9. LEE KENDRICK, III, CASE NO. 04-1620PA

Appeal from dismissal. Transportation Surveyor. Department of Transportation. (Oral argument held August 8, 2006.)

NO ACTION

10. RAYMOND SLEDGE, CASE NO. 04-2809PA

Appeal from dismissal. Youth Correctional Officer. Department of the Youth Authority. (Oral argument held August 8, 2006.)

NO ACTION

11. AUWANA BROWN, CASE NO. 00-3446

Appeal to set aside resignation. Police Officer. California State University, Fresno. (Oral argument held September 5, 2006.)

NO ACTION

12. RAYMOND GURULE, CASE NO. 05-1351A

Appeal from dismissal. Youth Correctional Officer. Department of Corrections and Rehabilitation. (Oral argument held September 5, 2006.)

NO ACTION

13. JONATHAN SILVERMAN, CASE NO. 05-0078A

Appeal from dismissal. Workers' Compensation Payroll Auditor. State Compensation Insurance Fund. (Oral argument held September 5, 2006.)

NO ACTION

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

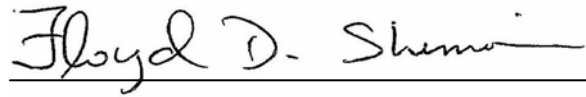
WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting held on September 5, 2006.

VOTE: Elkins, Harrigan, Tom, Sheehan, Clarey – Aye

A handwritten signature in cursive script, reading "Floyd D. Shimomura", written over a horizontal line.

Floyd Shimomura
Executive Officer
California State Personnel Board